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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yolo)

THE PEOPLE,

Plaintiff and Respondent,

v.

MARIO SUAREZ,

Defendant and Appellant.

C062256

(Super. Ct. Nos. 084549,
08880)

In April 2008, defendant Mario Suarez pled no contest to possession of cocaine base and admitted a prior strike allegation. As a part of the negotiated plea, he was placed on Proposition 36 probation. On August 12, 2008, defendant admitted violating the terms of his probation and was reinstated on Proposition 36 probation.

On August 22, 2008, defendant was arrested after an altercation with his girlfriend. While being transported to a detention facility, he kicked out the rear window of the patrol car, then put his legs out through the window and "continued to collapse the side door" of the patrol car. Defendant was

ultimately released on bail and failed to appear in court as ordered.

Defendant was charged with making criminal threats, assault with a deadly weapon, vandalism causing over \$400 in damage, and misdemeanor resisting arrest. It was also alleged as to the criminal threats charge that defendant had personally used a deadly weapon, and that defendant had a prior juvenile adjudication which qualified as a strike. Defendant pled no contest to vandalism and admitted failing to appear while on bail, an additional count. He also admitted the prior strike allegation and a probation violation. The remaining counts and allegations were dismissed.

At the next hearing, defense counsel advised the court that defendant wanted to withdraw his plea. The court appointed new counsel to investigate and make the motion. The motion was made claiming defendant was under the influence of a number of prescription drugs when he entered the plea. Following a hearing, the court denied the motion to withdraw, finding there was no evidence to support it. Two weeks later, the matter proceeded to sentencing. Defense counsel noted defendant wanted to make a Penal Code section 1368 motion (questioning defendant's mental competence), but he did not believe it was necessary. The court denied the request. Defendant was sentenced in accordance with the plea to a term of eight years eight months in prison. Various fines and fees were imposed. Defendant obtained a certificate of probable cause.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

ROBIE, J.

We concur:

HULL, Acting P. J.

BUTZ, J.